IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 6l36 of l996

Khatal Ahmed M Qureshi Dandu...petitioner

vs

The State of Mah and ors..respondents

Mr.R.K.Mendadkar for Petitioner

Mr. C.R.Sonawane AGP for respondent nos.l to 4

Mr.G.S.Hedgefor respondent nos. 5 and 6

CORAM;A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 24.ll.2004

P C:

Heard advocates.

The petitioner's claim that he belongs to Koya Scheduled Tribe has been negatived by the Scrutiny Committee mainly on the ground that he has styled himself as musalman koya. Mr.Mendadkar, learned counsel appearing for the petitioner brought to our notice a Circular issued by the Ministry of Home Affairs, Government of India dated 2.5.l995. Clause (i) of the Circular recites as under:

"l. General (applicable in all cases) .. where a personk claims to belong to a scheduled caste or a scheduled tribes by birth it should be verified.

(i) that the person and his parents actually belong to the community claimed.

(ii) that this community is included in the Presidential Orders specifying the scheduled castes and scheduled tribes in relation to the concerned State;

(iii) that the person belongs to that State and to the area within that State in respect of which the community has been scheduled.

(iv) if the person claims to be a scheduled castes he should profess either the Hindu or Sikh religion.

(v) if the person claims to be a scheduled tribe he may profess any relition".

2. A conjoint reading of clauses (iv) and (v) would show that when a person claiming to belong to

Scheduled Tribe, he should be professing either the Hindu or Sikh religion. However, if a person claims to be a Scheduled Tribe he may process any religion. In the circumstance, merely because the petitioner professes muslim religion he cannot be deprived of his claim as belonging to Koya Scheduled Tribe. The impugned order of the Scrutiny Committee dated l0.8.l996 is set aside and the matter is remitted back to the Scrutiny Committee for fresh consideration of the petitioner's claim in the light of the observations made in this judgment. The Scrutiny Committee is directed to decide the petitioner's caste claim expeditiously and preferably within a period of six months from the date of this order.

Rule is partly made absolute in aforesaid terms with no order as to costs.